

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ **MAY 22 2013** ★

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ROBERT ISLEY,

LONG ISLAND OFFICE

Plaintiff,

– against –

ORDER

11-CV-5228 (JFB) (GRB)

COUNTY OF NASSAU, et al.,

Defendants.
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JOSEPH F. BIANCO, District Judge:

On March 13, 2013, plaintiff filed an amended complaint in this action. In the amended complaint, plaintiff no longer listed any causes of action against the Town of Hempstead even though he had previously asserted the Ninth Cause of Action against the Town. On April 29, 2013, the Court held a status conference in this matter. Plaintiff's counsel indicated that he had prepared a stipulation of discontinuance to dismiss the Town from this action but that the County of Nassau refused to sign the stipulation. During the call, the County indicated that it would not sign the stipulation because the Town was a necessary party to the action and that the County would only sign the stipulation if plaintiff also dismissed the Ninth Cause of Action. By letter dated May 8, 2013, the County reiterates this position. By letter dated May 10, 2013, plaintiff argues that the Town is merely a joint tortfeasor (if the Town committed any wrongdoing at all) and that the County cannot compel plaintiff to withdraw the entire cause of action because the Town is neither a necessary or indispensable party. The Court agrees. Federal Rule of Civil Procedure 19(a) governs whether a party is indispensable and must be joined in an action.

However, it is a well-established rule that “it is not necessary for all joint tortfeasors to be named as defendants in a single lawsuit.” *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7 (1990). The County has not pointed to any allegations to suggest that the Town could plausibly be anything more than a joint tortfeasor, and therefore, that it is a necessary or indispensable party to this action. Accordingly, IT IS HEREBY ORDERED that plaintiff and the Town submit a stipulation of discontinuance dismissing the Town from this action and that the Court will so order the stipulation.

SO ORDERED.

s/ Joseph F. Bianco

JOSEPH F. BIANCO

UNITED STATES DISTRICT JUDGE

Dated: May 22, 2013
Central Islip, New York